IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION NO.838 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

IKBAL JUSUBBHAI SUMARA

Versus

THE STATE OF GUJARAT & ORS.

Appearance:

1. Special Criminal Application No. 838 of 2004

MS. KRISHNA U. MISHRA for Petitioner

MR. A.Y.KOGJE, APP for Respondents

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 31/08/2004

ORAL JUDGEMENT

1. Rule.

Mr.A.Y.Kogje, learned Additional Public Prosecutor, waives service of Rule on behalf of the respondents.

2. This application is filed by the petitioner, who is convicted and sentenced for the offence punishable

under Section-302 of the Indian Penal Code by judgement and order dated 9th December, 1996 in Sessions Case No.155 of 1994. Against that conviction, the accused had preferred an appeal before this Court, which is reported to have been dismissed by this Court on 15th March, 2004. The present application is filed for granting parole leave for a period of 60 days for preferring an appeal before the Honourable the Supreme Court.

3. The petitioner-accused had made an application before the District Magistrate, Rajkot, for grant of parole leave, which is rejected on the ground that the jail conduct of the accused is not good and that the police has given negative opinion.

4. Heard the learned Advocate for the petitioner and the learned Additional Public Prosecutor. Having perused the jail papers, both the grounds, on which the application of the petitioner is rejected, are found without any substance. The accused was punished on two occasions in jail, firstly on 20th July, 2002, and secondly on 18th November, 2003. Thereafter, the accused has enjoyed furlough from 23rd February, 2004 to 9th March, 2004 for a period of 14 days. Including this furlough, the accused has enjoyed in all five furloughs. Besides, on three occasions, he had been released on parole and every time he has reported in time without any complaint. In view of that, the present application is partly allowed. The petitioner is granted 30 days' parole leave on usual terms and condition. In addition thereto, it is directed that during the period of release, the petitioner-accused shall not enter the area of Bhaktinagar Police Station at Rajkot and shall mark his presence before Jetpur Police Station once in a fortnight between 9.00 A.M. to 2.00 P.M.

Rule is made absolute to the aforesaid extent only. No order as to costs.

Direct Service is permitted.

(Ravi R. Tripathi, J.)
kamlesh*